THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22217 of 1996

Dated: 19.12.2006

Between:

B.Neelambaram

..... PETITIONER

AND
Board of Directors,
Girijan Cooperative corporation Limited,
Visakapatnam,
Visakapatnam district and another Respondents

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22217 of 1996

Order:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in ordering reversion of the petitioner to the category of Senior Assistant vide proceedings dated 4.2.1984, as illegal and arbitrary.

The petitioner is employed in the Girijan Cooperative Corporation as Senior Manager. He was placed under suspension with effect from 29.11.1979 alleging certain irregularities. An enquiry was ordered into the allegations and a charge sheet dated 15.5.1980 was served on the petitioner alleging 25 charges. The petitioner submitted his explanation dated 11.10.1980 to the said charges. Having not satisfied with the explanation offered an enquiry was ordered and the Enquiry Officer after conducting an enquiry into the charges, submitted his report on 15.3.1981 holding the petitioner guilty of the charges alleged. Based on the report of the enquiry, a show cause notice of removal dated 17.9.1981 was issued, for which the petitioner submitted his explanation on 30.10.1981. Having not satisfied with the explanation offered by the petitioner, and based on the enquiry findings, by proceedings dated 5.12.1982, the petitioner was removed from service.

As against the said order of removal, petitioner preferred an appeal to the first respondent. On consideration of the matter, the Board of Directors passed a resolution modifying the punishment of removal to that of reversion from the category of Junior Manager to the category of Senior Assistant and the period of suspension to be treated as not on duty. Thereafter the petitioner was promoted to the post of Junior Manager in the year 1988 and further promoted to the post of Senior Manager in the year 1994. Thereafter, the petitioner submitted a revision and the same was rejected by resolution dated 9.10.1995. Hence, the present writ petition.

A detailed counter affidavit was filed in the matter denying the averments made in the writ petition and stating that the petitioner worked as Manager, Salur from 11.6.76 to 15.12.1977 and committed large scale misappropriation of funds and grave irregularities were committed in the branch in connivance with the other staff resulting financial loss to the corporation to a tune of Rs.6.61 lakhs. That the fraud committed by the petitioner, the godown clerk and other staff

members was proved and keeping in view the gravity of the offence committed, the petitioner was removed from service vide orders dated 5.12.1982. It is further stated that the Board of Directors vide proceedings dated 14.1.1983 modified the punishment reverting the petitioner to the lower cadre and treating the period of suspension as not on duty. It is further stated that the petitioner submitted a mercy petition and considering the same the Board restored the petitioner in his original cadre i.e. Junior Manager by placing him at the last place in the seniority list of Junior Managers. It is stated that keeping in view the concession granted to the petitioner twice, the Board has rejected the revision petition filed by the petitioner.

The learned counsel for the petitioner mainly contended that the order of the Appellate Authority modifying the punishment and reverting the petitioner to the post of Senior Assistant , as confirmed in the revision is incorrect and the petitioner is entitled to seniority and all consequential benefits.

Learned Standing Counsel for the respondent-Corporation contended that the proved misconduct alleged against the petitioner is grave in nature and a lenient view was taken in the matter twice and no interference is warranted by this Court.

Heard the learned counsel for the petitioner, the learned Standing Counsel for the respondent- corporation and perused the material available on record.

The charges leveled against the petitioner were held proved in the domestic enquiry. For the proved misconduct the petitioner was removed from service and in appeal, the Board of Directors, modified the punishment of removal and imposed the punishment of reversion. On a mercy petition, the Board of Directors, further modified the punishment restoring the petitioner to his original cadre of Junior Manager. Thus, concession was given twice to the petitioner, for the proved misconduct and sufficient indulgence was already shown by the Board. It is not a case where the enquiry is fraught with illegalities or in violation of the principles of natural justice or that the punishment imposed was disproportionate to the proved misconduct. Even though, the charges leveled against the petitioner were grave in nature, yet the Board of Directors have twice taken a lenient view and restored the petitioner to his original cadre and also granted further promotion to him. Be that as it may, in **Karnataka Bank Ltd. V. A.L.**

Mohan Rao[2], the apex Court held that it is not for the courts to interfere in cases of gross misconduct of the nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct proved, and that in such matters, it is for the disciplinary authority to decide what is the fit punishment.

In that view of the matter, no interference is called for with the impugned order. There are no merits in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 19.12.2006
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THE HON'BLE SRI JUSTICE N.V. RAMANA

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